



CONSTITUENT ASSEMBLY OF PAKISTAN DEBATES

Monday, the 11th April, 1951

OFFICIAL REPORT

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CONSTITUENT ASSEMBLY OF PAKISTAN

Wednesday, the 11th April, 1951

The Constituent Assembly of Pakistan met in the Assembly Chamber, Karachi, at Eleven of the Clock, Mr. President (The Honourable Mr. Tamizuddin Khan) in the Chair.

PRESENTATION OF CREDENTIALS AND SIGNING THE ROLL OF MEMBERS

The following member presented his credential and signed the roll of Members :—

Syed Hassan Mahmud (Bahawalpur State).

ELECTIONS TO THE FINANCE COMMITTEE

Mr. President : I have to inform the House that up to 4 P.M. on Wednesday, the 21st March, 1951, the time fixed for receiving nominations for the Finance Committee for the financial year 1951-52, nominations in respect of the following candidates were received, namely :—

1. Begum Jahan Ara Shah Nawaz,
2. The Honourable Mr. M. A. Khuhro,
3. Mr. Bhabesh Chandra Nandy,
4. The Honourable Dr. Mahmud Husain,
5. Moulavi Ebrahim Khan, and
6. Mr. Ghayasuddin Pathan.

Subsequently Moulavi Ebrahim Khan and Mr. Ghayasuddin Pathan withdrew their candidature. As the number of remaining candidates is equal to the number of vacancies, I declare Begum Jahan Ara Shah Nawaz, the Honourable Mr. M. A. Khuhro, Mr. Bhabesh Chandra Nandy and the Honourable Dr. Mahmud Husain duly elected to the Finance Committee.

MOTION *RE* SALARIES AND ALLOWANCES OF THE PRESIDENT OF THE ASSEMBLY

The Honourable Dr. Mahmud Husain (East Bengal : Muslim) : Sir, I beg to move :

“(A) that in the motion regarding salary and allowances of the President passed by the Constituent Assembly on the 5th January, 1949 :—

- (i) in sub-clause (d) of clause (3), after the words ‘one first class railway fare’ the words ‘or steamer fare, as the case may be’ be inserted ; and
- (ii) after clause (3) the following new clause be inserted, namely :—

‘(4) The President shall be entitled to the medical facilities admissible in terms of the special Medical Attendance Rules except that he and his family shall be entitled to receive medical treatment at the residence ; and

(B) that the amendment at (i) above shall take effect from the 1st April, 1950, and the amendment at (ii) above from the 3rd November, 1949.’”

[The Hon'ble Dr. Mahmud Husain.]

Sir, as the Honourable Members are aware, the House passed a motion regarding the salary and allowances of the Honourable President on the 5th January, 1949. In actual practice, it was found that there were two omissions in the rules : one relating to travel of the Honourable President by steamer which is a common mode of travel in Eastern Pakistan and, secondly, with regard to medical treatment at residence. It is now intended to remove these omissions and I hope, Sir, the House will adopt this motion.

Mr. President : The question is :

“(A) that in the motion regarding salary and allowances of the President passed by the Constituent Assembly on the 5th January, 1949 :—

- (i) in sub-clause (d) of clause (3), after the words ‘one first class railway fare’ the words ‘or steamer fare, as the case may be’ be inserted ; and
- (ii) after clause (3) the following new clause be inserted, namely :—

‘(4) The President shall be entitled to the medical facilities admissible in terms of the special Medical Attendance Rules except that he and his family shall be entitled to receive medical treatment at the residence ; and

(B) that the amendment at (i) above shall take effect from the 1st April, 1950, and the amendment at (ii) above from the 3rd November, 1949’.”

The motion was adopted.

THE GOVERNMENT OF INDIA (AMENDMENT) BILL

(Amendment of Fifth and Sixth Schedules)

The Honourable Pirzada Abdus Sattar Abdur Rahman (Sind : Muslim) : Sir, may I, with your permission, introduce a Bill further to amend the Government of India Act, 1935 (Amendment of Fifth and Sixth Schedules) ?

Mr. President : Yes.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I beg to introduce the Bill further to amend the Government of India Act, 1935 (Amendment of Fifth and Sixth Schedules).

Mr. President : You have moved the last item !

The Honourable Pirzada Abdus Sattar Abdur Rahman : Yes, Sir.

Prof. Raj Kumar Chakraverty (East Bengal : General) : What about earlier items ?

The Honourable Pirzada Abdus Sattar Abdur Rahman : I will move them after this Bill is finished.

Mr. President : Next item.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I beg to move :

“That the Bill further to amend the Government of India Act, 1935 (Amendment of Fifth and Sixth Schedules), be taken into consideration.”

Sir, this Bill is yet another step towards introducing adult franchise in the province of Sind, where the elections would be due very soon as their term will expire in early 1952. Therefore, Sir, advantage is being taken to introduce adult franchise in election there also, and also to enlarge the number of existing seats in that legislature. The number of seats is being increased to 107 out of which six will be general seats and three will be for Muslim women and 98 will be for Muslims. The population of Sind at present according to the new census comes to about

46 lakhs point something and this will give the representation of one seat per every 45,000. This has been done in consultation with the Government of Sind and no reservations in this case have been made for refugees as was done in the case of Punjab as it is not necessary to do so, conditions in Sind being quite different from what they were in the Punjab. It is not the intention that this classification between refugees and Sindhis should be allowed to continue any further in the interest of the refugees themselves as they have come from outside and they must mix and amalgamate with the normal population of Sind and not be classified any distinct community hereafter. There are several reasons for that on account of which they themselves be handicapped. Mostly the population of refugees is concentrated in bigger towns which will have representation of their own, more or less, it being very large population in bigger towns. Therefore, they will not be prejudiced in any way. I would also go to the length of saying that even if they were prejudiced to a slight extent it does not matter. It is best to do away with this artificial difference between the two sets of population and amalgamate them into one.

Sir, we are confining the present legislation to Sind and we have not amended the Fifth and the Sixth Schedules so far as East Bengal is concerned as their elections are not yet due and are far off and suitable amendments will be made later on. So, this Bill confines itself to amendments only with respect to the province of Sind and has not touched any provisions so far as East Bengal is concerned. The provisions in the Government of India Act as they exist at present are there and they have not been touched and they will be amended subsequently when the appropriate and right time comes.

Prof. Raj Kumar Chakraverty : But adult suffrage will apply to East Bengal also ?

The Honourable Pirzada Abdus Sattar Abdur Rahman : Yes, adult suffrage will also apply to East Bengal when the elections are due there, as is being done in the case of Sind. When the elections are coming, adult suffrage is being given to Sind. Similarly, adult suffrage will be given to East Bengal also and suitable amendments of Schedules Fifth and Sixth will be made in their case too when the appropriate time comes. As the House will remember, we have made a similar amendment in the case of the Punjab when the elections were due there. We made a similar amendment in the case of the North-West Frontier Province when their elections came and we are going to make a similar amendment now in the case of Sind. A similar amendment will be made in the case of East Bengal when the appropriate time comes. Sir, I have already explained the number of seats and I, therefore, commend this Bill for the consideration of the House.

Mr. President : Motion moved :

"That the Bill further to amend the Government of India Act, 1935 (Amendment of Fifth and Sixth Schedules), be taken into consideration."

Shri Dharendra Nath Dutta (East Bengal : General) : Mr. President, Sir, I want to make a few observations and would like to know something about the clauses. It has been said that in the province of Sind one seat has been given for a population of 45,000. I think in the case of the Punjab one seat has been given for a population of more than one lakh. The population of the Punjab is about $2\frac{1}{2}$ crores and there are 197 seats ; so, it comes to more than one lakh of population for one seat. I want to know on what principle the number of seats has been fixed in

[Shri Dharendra Nath Dutta.]

the case of Sind. Whether this has been done in consultation with the province or some other principle is followed in this matter? This is a matter on which I would like to have some enlightenment.

Sir, it has been said that this Bill is concerned with the province of Sind only and it does not affect the province of East Bengal. But as we read it, it seems that it will affect East Bengal also. I do not know if there is any mistake about it. I would like to draw the attention of the Honourable Minister to clause 2(b) which is about definitions. Here it is said :

“‘general seat’ means, in Sind and the North-West Frontier Province a seat other than a Muhammadan seat, and in the Punjab a seat other than an Indian Christian and Anglo-Indian seat.”

Now, a ‘general seat’ is a very wide definition as is apparent from the definition I have just quoted. I do not know whether a mistake has been committed in respect of East Bengal or whether it has been done intentionally? I have not been able to follow it.

The Honourable Pirzada Abdus Sattar Abdur Rahman : What is the mistake?

Shri Dharendra Nath Dutta : In the definition of the ‘general seat’ it has been said that ‘in Sind and the North-West Frontier Province a seat other than a Muhammadan seat, and in the Punjab a seat other than an Indian Christian and Anglo-Indian seat’. I do not know whether the East Bengal has been intentionally left out or whether there has been a mistake. I find that in the definition of a ‘general seat’ not only Sind is mentioned but the Punjab and the North-West Frontier Province are also mentioned, but East Bengal has been omitted. Has East Bengal been omitted because the Bill does not affect it for the time being or has it been mistakenly omitted? That is what I want to know.

The Honourable Pirzada Abdus Sattar Abdur Rahman : It does not affect East Bengal.

Shri Dharendra Nath Dutta : Therefore, so far as East Bengal is concerned, there will be another piece of legislation when the appropriate time comes and the ‘general seats’ shall have to be defined again.

The Honourable Pirzada Abdus Sattar Abdur Rahman : That is right.

Shri Dharendra Nath Dutta : The only thing that I want to know now is, on what principle the seat is reserved for a certain number of population. With these words I resume my seat.

Sardar Shaukat Hyat Khan (Punjab: Muslim) : Sir, while it is a good thing to have adult franchise and adult franchise is a thing which we have all been fighting for, I would like to bring to the notice of this House that adult franchise is not an end in itself but it is only a means to an end. Adult franchise is there to bring about greater democratic influence on the Government of the land. But as our feudal system is still in existence and it is still going strong, adult franchise becomes meaningless unless land reforms and feudal rights are given. What happens is that instead of an ordinary man in the village getting a power to exercise his vote, the whole of this adult vote goes into the lap of the bigger landlord. Therefore, unless the bigger landlord is checked, unlike the factory worker who is more enlightened and the manager or the owner of the factory can bear pressure upon such a voter, in the case of a rural constituency, by introducing adult franchise, you are handing over so many votes to the bigger landlords. Therefore, I would like to bring to the notice of the

House that you may introduce adult franchise by all means because it is a good thing but along with it you should also pass a law that feudalism must also stop because unless you check feudalism, you cannot give them the free right of vote.

Prof. Raj Kumar Chakraverty : Sir, this Bill has an important provision, namely, the adult suffrage. That shows that we are now moving towards democracy which we could not do under the old Government of India Act. This is a feature which is welcome. Sir, we all want—especially the minorities—joint electorates, not only in Sind but also in East Bengal. But I find that that is an important omission. While embodying this provision for adult suffrage, the mover of the Bill should also have moved for the system of joint electorate without reservation. We find that the old system of separate electorates is going to be perpetuated and we also know that it is a harmful legacy of the old British Imperialism—a legacy which separated the two communities and which did not help us to develop a sense of nationality and common citizenship. That legacy is going to be perpetuated in the present Bill also. We want not only democracy but a true parliamentary democracy. If there are separate electorates, there is no scope for a true parliamentary democracy to be developed in the country.

There is the communal majority and there is the communal minority and the communal minority lacks the potentiality of ever converting the majority to their views or of ever aspiring to get the power in the State. That is a very harmful thing and it is the very negation of democracy. I remember, the Leader of Opposition in the Sind Assembly in his statement said that he wanted joint electorates ; but I find that has not been heeded to. It may be argued that this is a matter for the future Constitution. Well, Sir, when you are going to have the election, when you are going to have adult franchise now, why should you wait and not have joint electorates also at the same time ? If we could not wait for the future Constitution so far as the adult franchise is concerned, why should we wait for the future Constitution so far as the demand of the minorities regarding joint electorates is concerned ? Therefore, Sir, the argument does not hold good that we should wait for the future Constitution.

I am very keen about this subject of joint electorates, Sir, as all my friends on this side of the House are. Even if there is no other change in the Schedules under discussion the Act will apply to Bengal ; and in Bengal undoubtedly we shall have adult franchise even without any further change of the law as it will be passed today. I want to raise here the question that in Bengal we are very keen about the system of joint electorates without reservation, and I hope that when the Bill for the change of these electoral rules and other things comes up before this House—when the Bengal election is ripe—the Government will remember this point and will satisfy the legitimate demands of the minorities so far as joint electorate is concerned. However, in Sind we have got an important omission. If it is possible, it should be rectified ; otherwise we have to take things as they are.

Mr. Ahmad E. H. Jaffer (Sind : Muslim) : Sir, I rise to welcome this Bill. There are two pertinent welcome features in this Bill and those are the question of the adult franchise and the increase of seats. I am very glad, Sir, that three seats have been reserved for women and I sincerely hope that this policy will be adopted in future in all the provincial elections, because we do feel that we must have reserved seats for women.

So far as the refugees are concerned I notice, Sir, that no reserved seats have been allotted for the refugees in Sind. At the moment, as we

[Mr. Ahmad E. H. Jaffer]

are all aware there are seven seats reserved for refugees and it was not long ago that they were elected to the Sind Assembly. Even for the recent elections held in Punjab a month ago there are 44 seats reserved for the refugees in the Punjab, of course by double-seated constituencies and I am very surprised that no seat should have been reserved for refugees in the future election to the Sind Assembly. It is indeed very important that at times the case of the refugees has to be brought to the notice of Government and their interests safeguarded and this can be done better by refugees than by anybody else.

I agree with my honourable friend, the mover of the motion, Pirzada Abdus Sattar, that the time has come when we should not have separate distinctions and treat one group of people different from the others. I entirely agree with him. I do feel that we are all Pakistanis ; we should live like brothers in every Province where we have settled down, but there is one thing which I want to ask : how is it possible for a poor refugee to get himself elected from a constituency when he is poor and when he has not got the means of contesting elections and fight election against a rich rival of his and it is quite likely that there will be. . . .

Mr. Ghayasuddin Pathan (East Bengal : Muslim) : Refugees have got rich representatives !

Mr. Ahmad E. H. Jaffer : My friend says that refugees have got rich representatives. Sir, there I disagree. The refugees who come here from India are indeed very poor, especially those who are in districts—maybe in towns they may be rich—and I entirely disagree with him that they are rich. I would like to emphasize the fact that seats should be reserved for refugees. My friend says that Members of the Sind Assembly did not ask this question : that seats should be reserved for them. Sir, I have had occasions to have a talk with the members who have been elected as representatives of refugees and they have told me that they are all of one opinion that seats should be reserved for them. Even this morning we have read in the various papers a statement by some of them that seats should be reserved for them and I would appeal again to the House to see that something is done for them and that seats are reserved for them.

Speaking about this matter, even the other day there was a question of the appointment of a Refugee Minister and all the seven members were agreed that one of them should be taken as Refugee Minister, and still we were told that there was no unanimity among the refugee friend, Mr. Khuhro, that they are all united and they have all left it to him to select one out of them as Refugee Minister in the Sind Cabinet and I sincerely hope that before long we shall have one Refugee Minister in the Sind Cabinet. The Sind Assembly is already over and I do not know when it is going to meet but even if the Sind Assembly meets or not, it is very necessary that one of these representatives is taken in the Sind Cabinet.

Secondly, Sir, besides these seven members of the Assembly there should be reserved seats for refugees in the Central Assembly. May I ask Government whether they have consulted the refugee organisations in the Sind Province and obtained their views on the subject of the reservation of seats for the Sind refugees. I am personally of the opinion, Sir, that if they were consulted or even if at this late stage they are consulted the majority of the organisations will be in favour of having refugee seats for their representatives in the Assemblies,

Lastly, Sir, I would like to bring to the notice of this House one more question : that of reservation of seats for the representatives of the trade. At present there is one representative in the Sind Assembly elected by the Pakistan Merchants Association. I feel and I honestly believe that if in the future elections no representative of the trade is elected as a result of the present rules, it will be very difficult for the cause of the trade to be brought on the floor of the House and to the notice of Government. It is therefore very necessary that at least a few seats should be reserved for the various Chambers of Commerce in the Province and trade organizations....

Shri Sris Chandra Chattopadhyaya (East Bengal : General) : No special representation.

Mr. Ahmad E. H. Jaffer : That is your point of view, but it is not the point of view of the trade. I am sure that the trade, the Chambers of Commerce and the trade organizations in the Province of Sind do feel—and feel very strongly—that they should be represented in the Sind Assembly ; not only in the Sind Assembly, but there is a general feeling in the country that not only in the provincial Legislature of Sind but in all the Provincial Legislatures and also in the Centre in all the future elections there should be a representative of the trade. After all it is the trade and business people who pay the largest amount of money into the State coffers in the shape of income-tax, super-tax, export duty and import duty and I suggest that a representative of the trade should be taken in the future elections. I sincerely hope, Sir, that this will receive the earnest consideration of the House.

Shri Dharendra Nath Dutta : They do not produce any wealth.

Shri Sris Chandra Chattopadhyaya : They only exploit the country.

Begum Shaista Suhrawardy Ikramullah (East Bengal : Muslim) : Mr. President, Sir, on principle I am against the reservation of seats for any particular group of people. It does militate against democracy. But seeing that we are still suffering from a lot of other things that militate against democracy, as, for instance, the zamindari system, the feudal system and several other things which do not give everybody weapons for fighting an election, I would support Mr. Jaffer's request that seats should be reserved for the refugees in Sind, where particularly I am afraid the elections are a monopoly of the zamindars. This being so, how can the poor refugees be sure of a fair chance unless seats are reserved for them ? With this point of view I support it. I again want to emphasize the fact that my reason for supporting the reservation of seats for refugees is that there are other factors which militate against their ever becoming a part and parcel of Sind, if left to themselves. Therefore, I would suggest that at least for the time being—or, say, for five or ten years—seats should be reserved for refugees, till such time as they have become a part and parcel of this Province and their financial and other conditions have improved, so that they can give an equal fight to others in the elections.

The Honourable Mr. M. A. Khuhro (Sind : Muslim) : Sir, I welcome the measure that has been introduced by the Honourable Mr. Pirzada. This primarily or almost entirely concerns the elections which are to take place in the Province of Sind in the near future. Some of the Honourable Members who have spoken have criticized certain features of this measure. I should like briefly to answer some of this criticism at this stage. The Honourable Member, Mr. Dutta, has objected

[The Hon'ble Mr. M. A. Khuhro]

why is it that Sind is going to have a seat for every 45,000 people whereas in Bengal it is for 100,000 people and perhaps in other places it might be more or less as in the Frontier it is only for 40,000.

Shri Dharendra Nath Dutta : It will be more than 3 or 4 lakhs ; you have got only 171.

The Honourable Mr. M. A. Khuhro : What about Punjab ? But the amendment that was passed in this very House you reserved one seat for 100,000 souls and only recently you passed a measure wherein Frontier Province you have provided one seat for 40,000 people only. The reason is quite obvious that population varies. Even now in the Province of Sind we have got 65 members in the House. The population of the Province is 46 lakhs and some thousands. Now, Sir, if you were to give, according to Punjab, one seat for every one lakh people, Sind will get only 46 seats which means actually less than what they have got now and with adult franchise how is it possible and reasonable to accept that every 100,000 should have one seat and 46 lakh people should elect 46 representatives. Frontier has one seat for 40,000 and Sind will be having about 120 to 125 seats. This was properly considered and the recommendation made by the Provincial Government on this consideration that the House should be of a reasonable size. Hundred or a little more than a hundred is considered reasonable from the taxpayer's point of view as also from the point of view of the people.

Sardar Shaukat Hyat Khan : Then this House is an unreasonable House.

The Honourable Mr. M. A. Khuhro : Which House ?

Sardar Shaukat Hyat Khan : The present House.

The Honourable Mr. M. A. Khuhro : It is the Constituent Assembly ; it is not a Provincial Legislature. This question will be considered when the constitution is framed for this House. Now, Sir, Sardar Shaukat Hyat criticised giving of adult franchise. He says it is a good thing but he asks for good sense to remove feudalism as well.

Sardar Shaukat Hyat Khan : Zamindars.

The Honourable Mr. M. A. Khuhro : I do not know what he means by "feudalism". If he refers to feudalism of the medieval ages which existed in Europe or middle eastern countries well it does not exist in Pakistan.

Sardar Shaukat Hyat Khan : Worse than that.

The Honourable Mr. M. A. Khuhro : He is against it because in the case of adult franchise people do not know how to exercise their votes unless education spreads in themselves. I may inform the Honourable Member that the Government of the Province are doing their best to spread primary education and making it compulsory. The latest census figures indicate that whereas in the last census of 1940-41, the percentage of literates in the Province was only 3, now it has gone up to 11.

Sardar Shaukat Hyat Khan : Thank the refugees.

The Honourable Mr. M. A. Khuhro : In the course of 10 years it has been our endeavour to increase literacy. It is not because of refugees. Out of 46 lakhs only 6 lakhs are refugees, the rest are local population. This figure of 11 per cent. does not reflect only the percentage of refugees as most of the refugees have come from States—East Punjab and Central India States—where there is not much literacy. Most of

them are illiterate. Their standard is not higher than the standard of literacy prevalent in the local population. It is not a question of feudalism. The question is that every person of 21 years has a right to vote and it is for him to give his vote to any one who appeals to him and to vote in any way he likes. Everybody has got freedom to exercise his vote in any way that he wants. In recent elections in the Punjab no influence was exercised as he knows and if there was feudalism it was equally on his side as on the side of any other party. It is not because feudalism is on the side of Muslim League; it is on the side of every party and it is not because of this that his party could not get more than one seat. It is not because zamindar influence in the Punjab was on the side of Muslim League that his party was badly defeated. I think that is irrelevant to the matter under consideration before the House. I think it is a very good step and it should be appreciated by the Honourable Members and every Member of this House that Government have given the right to every individual who is 21 years of age to exercise his vote whether he is male or female.

Sardar Shaukat Hyat Khan : 15 years become 24 years in this Province.

The Honourable Mr. M. A. Khuhro : You are obsessed with that idea.

Mr. Chakraverty has advocated joint electorates without reservation of seats. I know, Sir, there are some Hindu members in the Sind Assembly who demand joint electorates. But is it really in the interest of their community ?

Prof. Raj Kumar Chakraverty : We know their business.

The Honourable Mr. M. A. Khuhro : They are wrong. Their population in the Province of Sind is according to the new census not more than 2½ lakhs or 2 lakh 70 thousand. Now they are spread in the entire province. If you were to count districtwise or taluka or tehsil-wise you will find that they cannot get even a single seat or may be able to get a very few ones. Is it not reasonable to reserve seats for them ?

Prof. Raj Kumar Chakraverty : We do not want reservation.

The Honourable Mr. M. A. Khuhro : Without reservation not a single Hindu will be returned to the Assembly.

Prof. Raj Kumar Chakraverty : We want to go out of existence; that will do good to the country.

The Honourable Mr. M. A. Khuhro : I do not know whether the Honourable Members sitting opposite are entitled to speak for the people of Sind. They may speak for Eastern Pakistan but I do not think they can speak for Sind.

A Congress Member : We represent Hindus.

The Honourable Mr. M. A. Khuhro : Of Bengal and not of Sind. A Member of the Sind Assembly Mr. Sirumal might have seen the Members and told them that Hindus in Sind want joint electorates. I had discussed with him in detail and explained to him that it is very much against the interests of Hindu population of Sind if you demand joint electorates without reservation of seats and without special representation for your community and as things stand in every tehsil and in every constituency that will be framed in the entire Province, no Hindu will have any chance.

Prof. Raj Kumar Chakraverty : Never mind. You are there as my representative.

[The Hon'ble Mr. M. A. Khuhro]

Shri Sris Chandra Chattopadhyaya : In spite of Hindu majority we had elected a Muslim Chairman of Dacca Municipality by the casting vote of a Hindu Member.

The Honourable Mr. M. A. Khuhro : Let the constitution come and clear all these points. Honourable Members can urge when the new constitution is framed. When the Upper and Lower Houses are formed then all these details can be gone into and Honourable Members will be represented on the Basis Principles Committee and they are also represented in this House. They can speak then and that will be proper time for them to put forward their point of view. These elections are held at the present moment before the constitution is actually framed.

Shri Dharendra Nath Dutta : You have amended it to adult franchise. You are going to amend the Government of India Act. You have got the power to amend and you are amending this or that provision.

The Honourable Mr. M. A. Khuhro : I think the Government of Sind and the majority community of Sind are not prepared to take the responsibility on their shoulders to deny representation to Hindu minority.

I now come to Mr. Ahmad Jaffer's objections. He says there should be reservation of seats for refugees. This thing was very properly and thoroughly discussed when the representatives of refugee element in Sind Assembly were taken. The conditions in Sind are entirely different from what they are in the Punjab. Here the population is less than 6 lakhs. This population is mostly concentrated in big cities and the demand which really came and which was a genuine demand was that as far as population in urban areas is concerned it should be given separate representation and at the time of framing of constituencies the Delimitation Committee should be charged with this responsibility that wherever there are towns and cities where actually the refugee population has really concentrated there only they should be given separate seats and thus refugees will get proper chance of being represented if these urban areas get proper representation in the Sind Assembly. At present the population of refugees which has gone into the interior or mufassil is very very small. I discussed the point with the refugee members where Mr. Jaffer was also present and I explained this viewpoint to them. Now take the case of Upper Sind Frontier District, the population of refugees is only 7,000 in the entire district. In the district of Thatta, which is very near Karachi, refugees are only 6,000. Similarly, in the District of Dadu and District of Larkana the population of refugees varies from 20,000 to 22,000 in each district. If we were to give a separate seat and special representation in that way by assigning separate reserved seats for refugees, the trouble will be that two districts or three districts will have to be combined to find one seat. The extent of land will be 12,000 to 15,000 sq. miles. It will be far too expensive and it will be impossible for the poor refugees, for whom Mr. Ahmad Jaffer speaks, to return to the Sind Assembly. I do not agree with Mr. Jaffer when he says that every refugee who has come into Sind is poor. Surely, Mr. Jaffer who represents the refugees is not poor. Definitely every refugee is not as poor as he thinks. The most of the refugees population has come in the districts of Tharparkar, Mirpurkhas and Nawab Shah. These are the places where you have got an overwhelming refugee population and from these constituencies they are sure to secure seats in urban areas and they will have proper representation in the Sind Legislature. Therefore, actually speaking, there should be no apprehension on that score.

The other statement that my honourable friend Mr. Jaffer has made that all the seven refugee members were unanimous in demanding that there should be separate seats for them. I assure him that it is not correct. He has made an exaggerated statement before the House. Only one member, Mr. Hasan Ahmad Shah, has said that he is of that opinion and he has asserted this, but most of the Honourable Members who represent refugees in the Sind Assembly, do not actually support this, and they have said that they have come to settle in the Province of Sind permanently. They do not want to have water-tight compartments for the refugees, because they want to be here for all times to come and that they are not birds of passage. They want to remain with the local people with the best of friendly relations. When I discussed this matter with these seven Honourable Members, the majority of them held the view that they should have separate representation in urban areas, where they are in majority, but they do not want separate reserved seats for them which in the long run is wrong. Even Mr. Hasan Ahmad Shah says that he demands this for the present election, but after five years he does not demand that. I cannot follow that argument. If you are going to do a thing, it should be for all times to come. Why should it be for the present elections only? After all, all these people who have come in Sind, they have settled down there. They have got accommodation there. They have been given lands and shops, and most of the refugee population in Sind would permanently settle down there. Therefore, I see no justification why we should separate them from the rest of the population and allow this sort of ill-feeling and bickering to continue, rather give impetus to this sort of feeling between the two sets of population. The earlier they are settled properly, they sink their differences and move with other Sindhis on equal terms and be friendly with them, the better it is for them from all considerations. After all, if you reserve for them six or seven or even ten seats, how is that going to affect the majority population which will be returned to Sind Assembly. They have got to be on the goodwill of the population there who are to return them to the Sind Assembly, who are in majority and who form the Government. I entirely disagree with those who advocate separate seats for them.

The Honourable Member has also said that trade should also be represented. The Honourable Member himself knows that not only trade was represented in the Sind Assembly, but landlords were also represented. Not only trade and commerce was represented, but Europeans and other special interests were represented, and then, Sir, urban labour was represented by these special interests. Now that you are going to have adult franchise, you should have no representation for any class. Actually speaking, I had great difficulties in my own Party while discussing this matter, because the majority of them are zemindars and they want a special representation and after this adult franchise these landlords and zemindars stand nowhere, because they have to depend upon the votes of every individual. So in times to come they will not be returned at all to the Provincial Legislature. With the changing conditions, when people will be more educated, they will send their own representatives and they will not send any zemindar to the Assembly. As compared to trade and commerce, the interests of zemindars have to be more particularly safeguarded especially, when the adult franchise is coming. It was decided and we recommended to the Pakistan Government that there should be no special representation for any class and I think that is a healthy principle, which was followed in the Punjab and is going to be followed even in the Frontier Province. Therefore, I think that the objections raised by Mr. Jaffer do not hold

[Mr. Nur Ahmed]

any water and I recommend the Bill as it stands to the House to be passed.

Mr. Nur Ahmed (East Bengal : Muslim) : **Sir**, I welcome this Bill not because it contains provisions for the introduction of adult franchise in Sind. When the Government came forward with a similar Bill in this House for taking drastic action in the direction of adult franchise in the Punjab, there were some sections here also who were labouring under the misapprehension that a large number of adults who could be enfranchised would not properly exercise their votes in the best interests of the province. Sir, today we are glad to find that even the uneducated adult cultivator can vote in the elections for the best interests of the province and their own States. Punjab was faced with disunity in the province, and as a result of the dissentient elements no stable government could be maintained there. One party with an overwhelming majority has won the recent elections in the Punjab. It is the outcome of the introduction of adult franchise. The Punjab Government have a big programme of development schemes and if that programme is implemented by a stable Ministry—which I hope it is going to be now—the province will greatly benefit. I think that Government has been rightly guided in taking the bold step to introduce adult franchise, as is shown by the election results.

Then, Sir, the question has been raised about the reservation of seats for Mahajareens. I find that in this Bill no reservation has been made for refugees in Sind. Sir, I am personally not in favour of reservations of seats. All the citizens of the Federation, wherever they may be, must think in terms of unity and solidarity of the State. They must look upon it as their own State. From that point of view and also from the point of view of the refugees, I think the interests of the State, as also their's, will not be better served by having reservation of seats. Sir I know from personal experience the working of joint electorate. There is no reservation of seats in the Chittagong Municipality. I found that members returned on joining electorate basis never acted against the interests of the minorities except in very small matters. I am satisfied with the working of the system. If seats were reserved in the Sind Assembly—even if ten seats were reserved—their interest would suffer. Now the members would view with one another to get the solid support of the refugees and shall not forget the interest of the refugees.

Sir, a point has been raised by Prof. Chakraverty that there should be no reservation of seats for the Hindu minority. But the question is that under the present circumstances if no representation is given to the minorities, an impression may be created outside this House that the majority are not giving sufficient scope to the minorities to take part in the proper administration of the country. Sir, I think for some time at least there should be reservation—for say at least ten years—for the minorities in Pakistan. We do not want to be branded outside that the majority are not looking to the interests of the minority. We have to see that the minorities in Pakistan get equal treatment and their interests do not suffer in any way ; that they are not deprived of their fundamental rights to have a say in the administration of the country. From that point of view, Sir, I am of opinion that reservation should be made for the minorities at least for five or ten years.

Sir, I am very glad to see that distinction between mahajir and refugee in Sind is going to be abolished. Sir, in this House our dear

Quaid-i-Azam in his first speech declared at the top of his voice that from today we are not Sindis; we are not Bengalis; we are not Punjabis—we are all Pakistanis first and last. Sir, I remember the famous saying of late Maulana Mohammad Ali. He used to say: When it is a question between me and God, I am a Mussalman first and I am a Mussalman last; when it is the question between me and the country, I am an Indian first and Indian last. So, I think we must develop that feeling. When the question lies between us and Pakistan, we must declare that we are Pakistanis first and Pakistanis last. Sir, with these few words, I strongly support the motion for the consideration of the Bill.

Seth Sukhdev (Sind : General) : Sir, I appreciate the speech of my honourable friend Prof. Chakraverty. He has rightly said that in Bengal or in the whole of Pakistan, minorities do not need any special representation. Sir, he may or may not be aware that even before Partition, Sind Hindus, though they were in a minority—and a very great minority—were demanding joint electorate and they went on agitating till the last. It was the Mussalmans of Sind, who were in a huge majority, came in the way of joint electorate being introduced in Sind. I do not know whether the Honourable Mr. Qureshi is still afraid of Hindus of Sind who are two lakhs and half

Mr. President : Why do you bring in Dr. Qureshi at all ?

Seth Sukhdev : I beg your pardon, Sir ; I mean, Honourable Mr. Khuhro

The Honourable Pirzada Abdus Sattar Abdur Rahman : He thinks of Dr. Qureshi and nobody else.

Seth Sukhdev : Sir, he should know that even after the Partition, the minorities had confidence and demanded joint electorate at a conference in Larkana. Even now the minorities are in favour of joint electorate. The minorities have full faith not only in Sindhi Muslims but outside Muslims that have come here and made Sind as their home. The minorities have got full faith in both of them. This is a transition period when Ministers like Honourable Khwaja Shahabuddin and Dr. Qureshi, whom I remember even in dreams . . .

The Honourable Pirzada Abdus Sattar Abdur Rahman : Not dreams ; in hallucinations !

Seth Sukhdev : It may be hallucinations that the Honourable Ministers have created in the minorities

(*Interruption.*)

Seth Sukhdev : I am sure after some time, they will realise that the Hindu minority which has remained here for 3½ years in Pakistan are loyal and will be the backbone and helper of Pakistan, then even they and people like them will vote for me when I stand on a joint electorate.

Mr. President, Sir, the Honourable Mr. Khuhro knows very well that Hindus have full faith in Sindhi Mussalmans. When the fanatical hoards from India entered Sind and went on persecuting, robbing and driving out Hindus from Sind he was the stalwart gentleman, he was then Chief Minister, or we should call Prime Minister of Sind—and people like the Honourable Khwaja Shahabuddin or Chaudhri Kaliquzzaman would not dare send refugees in his district of Larkana.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, how is all this relevant—whether Khaliquzzaman did or anybody else did this or that.

Seth Sukhdev : Relevant with joint electorates, I would say.

Mr. M. H. Gazder (Sind : Muslim) : Most of it is repetition.

Seth Sukhdev : Mr. President, and when he was removed from that post, then a refugee special train was sent, and the House knows, there was looting and some stabbing and Hindu leaders were put behind the bars.

Mr. President : Seth Sukhdev, all this is not relevant.

Seth Sukhdev : Very relevant, Sir, with joint electorates.

Mr. President : However, it is not relevant.

Seth Sukhdev : Very well, Sir, if you rule so, I will not speak about this. I obey your order.

Mr. President, Sir, from this you will know that Sindhi Hindus have full faith in Sindhi Muslims and if there is joint electorate, they know their rights will be safeguarded fully. I am not diffident about even the refugees who have settled in Sind, I am sure they will also defend our rights if only such hot-headed Ministers are removed.

Mr. President, Sir, I should even submit here, that our friend, the Honourable Mr. Khuhro, as a grace, has suggested six seats for the Hindus and I am grateful to him, but he should remember that if he gives us joint electorates, which I hope this House will agree to give, we are sure to get more seats because all the peasantry in Sind knows, it was the Congress Hindus who always supported them, not only this poor peasantry, but every poor man and the speaker here also belongs to Congress and they will protect the interest of the peasantry, and not six but 16 seats will be given to them in elections. May be in this transition period when there is such a vicious propaganda about the minorities in Sind, for one or two elections, we may hardly get any seat, but since we are Pakistanis, after five years, ten years, you will see that we Hindus will win many seats in joint election.

Mr. President, Sir, again, this joint electorate is not only in the interest of minorities or the interest of the majorities, it is in the interest of Pakistan. It will unite different people, different communities into one single nation and that and they will look with one idea and one aim : when any emergency comes, that will all fight for Pakistan shoulder to shoulder and will do lot for the advancement of Pakistan.

Sir, with these words, I will request the Honourable Minister to move some amendment and do away with separate electorates and give the minorities also the joint electorates.

Mr. M. H. Gazder : Sir, I rise to support this Bill and compliment Government for its introduction.

Mr. Ahmad E. H. Jaffer : It is not the Government !

Mr. M. H. Gazder : Constituent Assembly, Sir. I compliment our Party Leaders.

Much has been said by Opposition benches here that there should have been joint electorates for minority community without reservation of seats. Sir, we had very bitter experience of our Hindu friends in Sind and they always.....

Mr. M. H. Gazder : Because they deserved it.

The Honourable Pirzada Abdus Sattar Abdur Rahman : So, it is Mr. Gazder and not Dr. Qureshi who turned them out !

Mr. M. H. Gazder : Gazder and Khuhro : They never sleep when they hear my name and Mr. Khuhro's. I want to tell them what experience Muslims of Sind had from Hindus when still there were separate electorates—when Mussalmans were elected by Muslims—still they divided us and tried to rule over the majority community against our interests. Sind remained backward province due to manipulations of their capitalist class mentality and it is news to me today that if there were joint electorates without reservation of seats, our Hindu friends will get so much support to them to get majority seats in Sind Assembly, because they have done so much for the under-dogs, *Haris*.

The Honourable Pirzada Abdus Sattar Abdur Rahman : It is day dream !

Mr. M. H. Gazder : This is their dream—may be day dream or night dream. This is what they expect. They tried to rule over us even when there were separate electorates and now they expect to do the same when there are joint electorates without reservation of seats.

Sir, I always advocated separate electorates for Muslims because Musalmans were in a hopeless minority in majority of provinces of the United India and wherever, Sir, we were in majority—Muslims were in majority—Hindu influence counted so much that there was danger that no Musalman could ever be elected if there were joint electorates without reservation of seats. I may mention, Sir, wherever there were joint electorates, either in Municipalities, Local Boards or local bodies, and even where the Muslim population was always little more than Hindus, not a single Musalman was elected under joint electorate board, and that is the same threat which is being offered to us today.

But, Sir, the dreams that under-dog of Sind will support them, are absolutely false because they have exploited the *Haris*, the poor Muslim cultivators, and they fleeced them so much that once a debtor, they were always debtors for seven generations, ten generations, they never got out of their debt. They use to keep all false accounts. This is how they used to treat Musalmans and now, they expect that all these people will vote for them again to bring them into power so that they may work havoc. I think, Sir, that is very false hope, and I am not sure whether it will ever be realised even if . . .

Shri Sris Chandra Chattopadhyaya : Make it joint electorates and you will see.

Mr. M. H. Gazder : Yes, Sir, time will come when you will be getting joint electorates without reservation of seats when you will look up to us—majority community—to look after you and not try to come back into power and dominate over us. Then you may be 5 per cent. or 6 per cent. Well, when you get into that mentality, you will get joint electorates without reservation of seats, but if you think you will come back again into power and dominate us, even when you are in minority, you cannot have it !

The Honourable Pirzada Abdus Sattar Abdur Rahman : That is day-dream.

Mr. M. H. Gazder : Now, Sir, I have dealt with this question. I am myself of the opinion that if minorities want protection of majority by this method of joint electorates or reservation of seats, I must welcome

[Mr. M. H. Gazder]

it, but this is not the time to introduce it. Our Constitution is being framed and the whole matter will be considered. In Western Pakistan there are hardly 2 or 3 per cent. non-Muslims. Sir, Musalmans do not want separate electorates but we do not want the minority to be deprived of their seats. If they want that they should be merged into the general population, a time will come when this will be done and they should not be afraid of it.

As regards the contention of my honourable friend Mr. Jaffer that seats should have been reserved for the refugees, I think it is a very wrong mental attitude. Our refugee brethren were compelled to come to Sind and to leave their hearths and homes. They have come here to settle permanently and live here amongst the local population as Sindhis. Now, if an attempt is made to divide them permanently, it is neither in the interests of the refugees nor in the interests of the nation that they should be classed separately. They have come here and they want to settle down here as permanent residents and, therefore, they should get equal rights with the local residents. But if they claim any special privileges, they will be treated as a separate class and they will antagonise the whole local population and their interests are bound to suffer. Sir, at the present moment I am also in the category of a refugee in Karachi. I have represented the Karachi city for the last 20 years in the various legislatures ; it was my constituency. But today our refugee brethren have come here and the population of Karachi has gone up from 2½ lakhs to 12 lakhs and we are absolutely submerged. But I do not say that because the present population has gone up and I shall have no chance to represent the old inhabitants of Karachi, a seat should be reserved in the Assembly for a local Muslim. That will be wrong because I want to come on my own merits. If people like me, they will elect me ; but I do not want to cut at the very root of our national solidarity by asking for reservation. We want Pakistan as a nation. We want our new population to identify themselves with the interests of the local population. In fact, the local interests should be their interests and they should not ask for any separate representation because it will be very wrong in their own interests and it will be equally wrong in the interests of the nation.

The Honourable Mr. Abdul Hamid (East Bengal : Muslim) : Mr. President, Sir, I rise to bless the measure that has been brought before the House. I am very glad that adult suffrage has been introduced. It is a very good thing. In a democratic country every citizen is expected to take part in its administration. On principle, it is very good but I hope those who pilot this Bill also realise that democracy and adult suffrage cannot function very well unless literacy is advanced. I do hope that along with this measure they will also realise their responsibility of removing the illiteracy from the people to whom they are giving the franchise.

Sir, it has been said that the refugees and the trade should be given separate electorate. I can visualise that future elections as well as the present election will be fought on party lines and I have absolutely no doubt that adequate consideration will be given by the parties to the claims of the refugees as well as of the trade in nominating candidates. I do not visualise any difficulty in this matter. Their interests will be fully safeguarded.

Sir, I should not have taken part in this debate had not the question of joint electorates been brought before the House. I fully understand

why the members of the Opposition are so vehemently opposed to getting separate electorate for themselves. The psychology behind it is that from the time they have taken to politics they have been constantly urging for joint electorates. What was their motive in doing so, I need not go into. Their feeling is still pursuing them and I am almost certain, that after one or two elections they and their sons and grandsons will be clamouring for separate electorates if it is not conceded to them now.

Some Congress Members : No, no.

The Honourable Mr. Abdul Hamid : I am certain of that. Even today if a Hindu is elected, the main complaint against him will be that he is stodge of Mussalmans as he has been returned by the votes of the Musalmans. But, Sir, we want to get rid of that complaint. Sir, we must not forget that battle of renaissance was not fought and won in India. Religion in some shape or other does come in politics and that is the special reason why we want that different religious elements should be represented in the future constitution of Pakistan. (Interruption by Mr. Sris Chandra Chattopadhyaya.) Sir, my friend and myself were in the Congress and I know their feelings about joint electorates and separate electorates. But I do say this that if they ponder over the whole matter in seclusion and try to get rid of their past mentality, they will consider that if the Hindus are given separate electorates, their position and their importance will be assured in Pakistan.

Prof. Raj Kumar Chakraverty : Thank you for your advice.

The Honourable Mr. Abdul Hamid : I am giving this advice, no doubt, but I know that Hinduism, as Brahmins have made it, is nothing but exclusiveness. It is the work of Prof. Chakraverty and his forefathers which has necessitated that special treatment should be meted out to Hindus because they cannot merge themselves socially and politically with other communities. Their religious conception has made it impossible for them to mix with members of other religions and therefore I firmly believe that it is a very wise thing that separate electorate should be given to a very small minority of Hindus in Sind. It should be considered as an act of good grace on the part of those who have ushered in this Bill before this House.

It has been said by my friend Mr. Jaffer that only three seats have been reserved for women. As a chivalrous young man, he would like to have more seats reserved for ladies. But he should know that because three seats have been reserved for the ladies in the Constitution, that does not mean that they cannot contest other constituencies. They are welcome to fight seats in other constituencies. I am sure chivalrous men like Mr. Jaffer will be on the Nomination Committee and he will be able to give more seats to ladies than the seats that are exclusively reserved for them. With these few words I give my wholehearted support to this measure.

***Mr. Abdul Waheed Khan (Punjab : Muslim) :** Sir, we have already had a long discussion on this subject and there seems now no need to prolong it any further. But the Opposition and Mr. Khuhro have during the discussion raised some interesting points on which I would also like to throw some light.

Sir, enough has been said regarding joint electorates and separate electorates and there is now very little to add to it. I would like to tell something to my friends of the Opposition. They have been members of this House for the last three years and have been following its proceedings. They were present here at the time of the passing of the

[Mr. Abdul Waheed Khan]

Objectives Resolution and know fully well what has been done by the Government during all this time. They should have noted one thing that the constant effort of the Government has been to safeguard the interests of the minorities. Our chief aim has been not only to keep intact the cultures, the old civilisations and the religions that in our country go by the name of Hinduism and Christianity, but also to give them all opportunities to develop and progress, and also to see that they are adequately represented in the Assembly, so that they themselves could look to their interests. The question whether they repose trust in us or not and what motive they have in putting forward such a proposal, does not arise. This clears up our position and we have on many an occasion given proof of this. We people do not believe in a nationalism which may aim at suppressing the different cultures in the country in order to maintain our own. We, on the other hand, feel it our duty to protect every culture in the country and allow it to prosper. The best procedure to achieve this object is that we provide in our laws full liberty to the electors at the time of elections, to elect representatives of their own choice who could look to their interests. Sir, being in a minority in the undivided India, we were always demanding separate representation. Now, that we ourselves are in a majority and in power, it will not be fair not to look at the demand of our minorities from the same point of view which, as a minority, we had ever been pressing.

Seth Sukhdev perhaps comes from Bengal and so is ignorant of the affairs of this part of the country that he says that the Hindus were made to go from this part of Pakistan.

Several voices : Seth Sukhdev belongs to Sind.

***Mr. Abdul Waheed Khan :** I am sorry. If it is so he must know well that every effort was made to prevent Hindus from going but they were evacuated from here under a plan and for certain misunderstandings. However, it is not at all our wish to follow India in everything and like her pass laws against the demands of the minorities. The principle that Pakistan has before it, is to make every effort to help the Minorities by means of legislation.

Sir, the second thing I have to say is in regard to Muhajirs. I am really sorry to say that I do not agree with Mr. Khuhro, the Chief Minister of Sind, who thinks that separate representation to Muhajirs will create bad blood and a gulf between them and the local people, and their relations will not be as good as they are at present. This is altogether wrong. It is not at all fair to refuse separate representation and other rights to Muhajirs at a stage when they are financially weak, have limited resources and means, and cannot stand on their own legs.

In the Punjab Muhajirs are given 44 seats and I know—and all the people coming from the Punjab know it too—that there is not only no rift between the Muhajirs and the local people but relations between them are also much better than before as a result of the creation of double-seat constituencies, that is, from every constituency two candidates—one Muhajir and one local person—were to be elected, and every elector was given two votes. Thus Muhajir and local candidates were given a chance to canvass the voters together. The result of this device was that it helped create happier relations between the two. I therefore think that the apprehension expressed by Mr. Khuhro that the relations between the Muhajirs and the local people will deteriorate as a result of separate

representation, is not only unfounded but also contrary to facts. But in view of the assurances given by him and in view of the fact that in some towns Muhajirs are undoubtedly in a majority, although I also know for certain that a Muhajir with limited resources cannot compete successfully against a local man, we hope he will see to it that an adequate number of Muhajirs gets elected. Mr. Khuhro has put himself on trial. We will see with interest how far the leaders and the people of Sind prove true to their promise and elect at least 12 members to represent their six lakh Muhajirs.

Sir, the third and the last thing that I have to discuss is about Sardar Shaukat Hyat's plea that before introducing adult franchise the feudal system should have been abolished. It means that during the present zamindari system the people should have no franchise. In upholding this view he appears to represent an Eastern beloved. If you look at that beloved you are nick-named as insolent but if you turn your back the beloved complains of inattention and faithlessness.

Perhaps the poet had composed this couplet for such an occasion :

*Chah ka nam jab ata hai bigar jate ho,
Woh tariqa to bata do tumhen chahen kyonkar.*
When you get angry at the mere mention of love,
Then teach us how to show our love.

He has always achieved his success in the political field on the slogans of 'Rights of the people' and 'adult franchise', and now when a legislation for granting those rights to the people is under consideration, he comes out to oppose it on the plea that the feudal system should be abolished first. I ask him if anything can ever satisfy him.

Woh tariqa to bata do tumhen chahen kyonkar.
Tell us how to please you.

I am sorry he is not realising that granting adult franchise to the people will pave the way for a quiet revolution. If it succeeds then automatically power will pass from a few zamindars, jagirdars and privileged persons and families to the commonalty, and the result would just be that which the learned Iqbal had predicted in his couplet :

*Sultani-e-Jamhoor ka ata hai zamana
Jo naqsh kohan tum ko nazar ae mita do.*
The time for the supremacy of the commons is near at hand ;
So blot out all traces of the dead past that you come across.

The feudal system of his description does not exist in Pakistan. And, whatever vestiges of it are left, they are quickly disappearing of themselves. If anyone tried to retain them, it would be the last chance for him to get elected. The Prime Minister of Pakistan has already cautioned zamindars in his speech before the Punjab Assembly Party that if they wanted to maintain any position in the country, they must show kindness, sympathy and generosity to their tenants and labourers, otherwise they would be liquidated.

So I say that the very introduction of the adult franchise system is a sufficient guarantee that the apprehensions and misgivings expressed by Sardar Shaukat Hyat will not remain.

Sir, in the end I want to say a few words to the leader of Sind. He knows that in the elections of the Punjab on the basis of adult franchise, the Muslim League made all possible efforts but still there were defects. I, therefore suggest to him to procure some such ink as may not be effaceable for eight days once it is applied to hand. With this ink every voter's thumb should be imprinted so that he may not be able to vote at any other polling station except one.

[The Hon'ble Pirzada Abdus Sattar Abdur Rahman]

With these words I support this Bill and hope that the authorities when forming constituencies and fixing the quota of seats for these constituencies, will see that at least 12 Muhajirs are elected to the Sind Assembly.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, several points have been raised during the debate. The first was by Mr. Dharendra Nath Dutta as to the scheme with regard to the distribution of seats in various Provinces. I hope he would realize that the same yardstick cannot apply to all the Provinces because the House will either get too unwieldy or too small so that the stability of a Government will be in danger.

Sardar Shaukat Hyat Khan : *Qad ke Mutabiq.*

According to size.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Therefore it has got to be taken into account as to the size of the House. In East Bengal for instance if the same yardstick is applied we would probably have a House of 800 which will be unwieldy and if in a Province like N.-W. F. P. or let me take the example of Baluchistan, if the same yardstick is applied probably there will be only 5 or 6 members in the Legislative Assembly of Baluchistan. Therefore it is with regard to the circumstances in each Province that we have to allot seats. Now this is a provincial Legislative Assembly which legislates for that particular Province and there is no harm if different yardstick is applied to different Provinces. In this case as in others the Provincial Governments have been consulted and it is according to their wishes that this has been done. There is no hard and fast rule of any measure or any provision in the Act to say that every 45,000 will have one seat. It is just a measure by which it has been done ; it has no legal sanction or statutory provision behind it. With regard to other points raised by the Honourable Members of the Opposition with regard to joint electorates I am sorry that they have raised these points here when this is not really the proper time to do so and they already know that different bodies are seized of this problem and they have got to make a report to the Constituent Assembly. They know all about it. The Minorities Committee and other Committees have been set up by the Constituent Assembly who have got to decide this question and the very fact that today there have been a number of speeches from the Opposition as well as from this side of the House expressing different opinions—some say joint electorates are good ; some say they are bad. The very fact that there is difference of opinion suggests that I was correct in not raising this point at this particular time whether joint electorates should be there or should not be there. You should leave it to the future constitution to decide and resolve all this difference of opinion between the different elements and then make a recommendation to the Constituent Assembly that the Constituent Assembly will be competent to resolve finally. I think, Sir, I was right in not raising this point and leaving the provisions in the Government of India Act as they are on this point for the time being.

I was very sorry to listen to the speech of Mr. Sukhdev today but I cannot blame him for the incoherent remarks that he has made today in view of the mental attitude ; and reading his mind during the past two or three days I can fully realize that he is not in a suitable state of mind otherwise the dangerous statement like the one that he has made today

against the interests of his community in Sind he would not have made. It is absurd to make a statement that Hindus captured all the majority seats in Sind. He knows that it is wrong. There is a misapprehension in the mind of the population of Sind Hindus that because of their past behaviour they may be able to do so. But does he still want to persist and encourage in it? I do not think it will help him at all. Muslims and Hindus are now living in peace but does he want to revive some forgotten things and perpetuate them? I am sure that if he had been in his proper frame of mind he would not have made that statement, which would harm his community in a way which nobody could have done. At this time whatever he might have said but he could not have been a friend of his community if he says what he has said. I am compelled to say that it is really a dream that he seems to have dreamt sitting in the Assembly. There is no question of Hindus capturing power or majority seats in the Assembly of the Province of Sind. That question will take care of itself, as I have said, when the Constituent Assembly takes a decision. After all these divergent opinions will have to be reconciled.

Another unfortunate statement which he made, and I would not have referred to it had it not been an important one, was that two Ministers of Government of Pakistan by their behaviour drove out the people of Sind from Sind. I am very sorry that he forgot the past so very easily. I would not have taken notice of it if this would not have been against the very facts of the case as to what happened immediately before partition and after partition in Sind. Does he forget that it was the propaganda of Congress which made Hindus of Sind go away thinking that our economic position in Sind will collapse and we will not be able to run the Government. Was it not the policy of Congress in Sind who were communal minded to send away Hindus from Sind to harm the administration. Why blame anybody else subsequently and why put the blame on Dr. Ishtiaq Husain Qureshi whom my friend does not forget even in his hallucination and say that he is responsible with regard to that policy. Is he repentant for all these things that they have done? Does he feel that they have done disservice and greatest harm to the Hindus of Sind by asking them to go away, to India where they are rotting? Does he feel that it was a wrong decision and that wrong action is responsible man like him should have raised a point in the debate which has nothing to do with these points. Now, Sir, coming to the other point raised with regard to reservation of seats for refugees I am again very sorry to say that they are no friends of refugees who want reservation. They are not cognizant of the conditions that exist in Sind. One fact they should not forget that our refugees have been settled in Sind on the property left by Hindus who have migrated and it is a vacant property. They are already there and there is an impression in Sind that these refugees who have come from outside are the *Janashin* of Hindus. Already there is resentment against them and they think that these are people who have taken the place of Hindus. Probably they are going to fleece us and behave in the same manner. And now to have reservation of seats for refugees and create constituencies for them is not good. I think we should not even reserve seats for them. That would act against their interests. I think it will be a very dangerous thing. It is rather not allowing refugees to join and mix up with the Muslims of Sind and it will be the greatest danger for Sind and for Pakistan to keep this issue alive and the best thing to do is to abolish any such distinction and amalgamate the constituencies so that they may be one with the people of Sind in the future. With regard to their

[The Hon'ble Pirzada Abdus Sattar Abdur Rahman]

respective opinions, Mr. Khuhro has already explained the view expressed by the Members of the Sind Legislative Assembly. I have got the extracts of the speeches made by the refugee members in the Sind Legislative Assembly.....

[At this stage Mr. President vacated the Chair which was occupied by The Honourable Mr. Abdul Hamid, a Member of the Panel of Chairmen.]

The Honourable Pirzada Abdus Sattar Abdur Rahman : in which they have very clearly stated that they do not want this reservation. I do not know whom Mr. Haroon Jaffer and Mr. Abdul Waheed Khan and others represent—it might be subsequently some interested people. Of course, all will not agree. It is the personal interest that comes in. Some people have thought that reservation of seats will help them and they look into the general nature of seats of the refugees, and they have engineered some sort of propaganda and created some sort of trouble and made representations, but I assure Mr. Jaffer that my motive in not having any reservation is that it is no longer necessary. Three years have already passed without any distinction between refugees and non-refugees, the local people, and the earlier we do away with it the better. Their interests have been safeguarded. As has been said by some of the Members, elections are being run on Party basis. The Party, whosoever it may be, puts up the candidates and it will certainly take into consideration that the refugees do have their representation. Similarly about the special interests, if Trade representation is necessary, the Party that has to put up candidates will see that a person from the trade is put up. Therefore, there is no question of reservation for refugees or special interests. It will be detrimental to the Province of Sind and the country as a whole to raise such issues at the present moment.

One more point that is left over is the one about which I do not think the Honourable Member who raised it was serious. I am referring to Mr. Shaukat Hyat Khan. I think this was only a face-saving device to give an explanation of the fact that his Party got only one seat out of 197 seats in Punjab. I think what he wanted to suggest was probably that it was because of this feudalism that he has not been able to get it. Being himself a great feudal lord, I think he should have been the last person to take up this point. I might tell him, probably he has not seen that the next Bill that I have to introduce aims at doing away with the feudal lordism, of which he is none, and we are doing away with that in the East Bengal, and the time is not far when his pocket will not remain untouched in West Pakistan.

Sardar Shaukat Hyat Khan : I hope Mr. Khuhro's pocket will also be touched.

The Honourable Pirzada Abdus Sattar Abdur Rahman : I am not talking about individuals. I am talking of the policy. It will be evident from the next Bill, that we are abolishing zemindari and if any such measure comes from any other provincial Government, I will support it, and support amendments that might be necessary in the Constitution to put them into affect. Therefore, Sir, Mr. Shaukat Hyat Khan should not have raised this point only to give an excuse, but I do not want to dilate on this any further, because I do not think he was serious. With these words I move the motion for the acceptance of the House.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That the Bill further to amend the Government of India Act, 1935, (Amendment of Fifth and Sixth Schedules) be taken into consideration."

The motion was adopted.

The Honourable Dr. Mahmud Husain (East Bengal : Muslim) : Sir, I am moving these purely verbal amendments which have been circulated just now. Sir, I move :

"That in part (a) of clause 2 of the Bill, in sub-clause (b) of clause (ii) of the proposed paragraph 4, for the words 'Indian Christian' and 'Anglo-Indian' the words 'Pakistani Christian' and 'Anglo-Pakistani' respectively be substituted."

The Honourable Dr. Mahmud Husain : Sir, may I move the other amendment also ?

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : Yes.

The Honourable Dr. Mahmud Husain : Sir, I move :

"That in part (a) of clause 2 of the Bill, in clause (iii) of the proposed paragraph 5, for the words 'Indian Christian' at both places and the words 'Anglo-Indian' the words 'Pakistani Christian' and 'Anglo-Pakistani' be substituted."

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That in part (a) of clause 2 of the Bill, in sub-clause (b) of clause (ii) of the proposed paragraph 4, for the words 'Indian Christian' and 'Anglo-Indian' the words 'Pakistani Christian' and 'Anglo-Pakistani' respectively be substituted."

The motion was adopted.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That in part (a) of clause 2 of the Bill, in clause (iii) of the proposed paragraph 5, for the words 'Indian Christian' at both places and the words 'Anglo-Indian' the words 'Pakistani Christian' and 'Anglo-Pakistani' be substituted."

The motion was adopted.

Mr. Prem Hari Barma (East Bengal : General) : Sir, I move :

"That in part (a) of clause 2 of the Bill, in the proposed paragraph 6, all the words beginning with the words 'In a Province in which' and ending with the words 'any seat in that constituency' be omitted."

Sir, first of all, I would like to read the whole paragraph which I want to delete. It reads as follows :

"In a Province in which any general seats are reserved for members of the scheduled castes, all members of those castes who are entitled to vote in a constituency in which any seat is so reserved shall be entitled to take part in a primary election held for the purpose of electing four candidates for each seat so reserved and no member of those castes not elected as a candidate at such an election shall be qualified to hold :—

(a) a seat so reserved in that constituency ;

(b) if it is so prescribed as respects that Province, any seat in that constituency."

Sir, the object of my amendment is to do away with the primary election. This primary election was introduced because there was joint electorate amongst the Hindus. With a view to elect genuine and *bona fide* scheduled castes, the system of primary election was introduced. Perhaps the House is aware that Mahatma Gandhi had a fast to avoid any cleavage in the Hindu community and, therefore, joint electorate was acceded to. It was with a view to elect genuine scheduled castes that this system of primary election was introduced. By means of this

[Mr. Prem Hari Barma.]

election for a general seat reserved for the scheduled castes, a panel of four candidates is elected by the voters belonging to the scheduled castes only and after this election, these four candidates and the candidates for the general unreserved seats contest jointly. The result has been that the scheduled castes candidates will first have to go through a primary election—and there is practically no difference between this primary election and final election, when both the scheduled castes voters and others cast their votes together. The result has been that scheduled castes candidates have to go through the trouble of double elections. The object was to elect the genuine candidate, but, Sir, we have learnt from experience, that the object for which it was made has been frustrated inasmuch as the scheduled castes candidates are very poor and backward; they cannot have the means to undergo the troubles of two elections. Therefore, those scheduled caste candidates who have the backing of the Caste Hindus are generally successful in the final election. It will, therefore, be clear that the scheduled castes are not benefited by this election. Moreover, I think there is the cumulative system of voting by which the Scheduled Caste voters can cast all their votes in favour of one candidate only. Therefore, their interests will be safeguarded if this primary election is done away with.....

The Honourable Pirzada Abdus Sattar Abdur Rahman : May I intervene; the Honourable Member has not understood. I think we might save the time of the House if I make a statement. We are not amending anything with regard to East Bengal. We are making certain changes in the Government of India Act with regard to Sind and not with regard to any other province. If the Honourable Member is going to suggest amendments like this, there will be no end. He can take up the matter when the law with regard to East Bengal is amended. This is not the time for that....

Mr. Prem Hari Barma : Whether it is Sind or any other province, this should be done away with....

The Honourable Pirzada Abdus Sattar Abdur Rahman : There is no Scheduled Caste seat in Sind; it does not arise....

Mr. Prem Hari Barma : There is no reservation?

The Honourable Pirzada Abdus Sattar Abdur Rahman : It does not arise at all. Let us save the time of the House. It does not come in now. You may move it later on....

Shri Kamini Kumar Dutta (East Bengal : General) : I wish to get one thing cleared; this portion would be redundant so far as Sind is concerned....

The Honourable Pirzada Abdus Sattar Abdur Rahman : I am very sorry the Honourable Members have not understood the scheme of the amending act; the scheme is that certain paragraphs are replaced by other paragraphs. That part of the Schedule is being replaced, but the old things are to be retained. The Assembly in East Bengal is functioning and there may be a bye-election under the Government of India Act.....

Mr. Prem Hari Barma : While we are amending the whole Schedule, we can omit any part of it....

The Honourable Pirzada Abdus Sattar Abdur Rahman : We are not amending the law with respect to East Bengal....

Mr. Prem Hari Barma : I do not think there is any harm....

The Honourable Pirzada Abdus Sattar Abdur Rahman : It does not arise at all.

Mr. Prem Hari Barma : What is the harm.....

The Honourable Pirzada Abdus Sattar Abdur Rahman : All right, you move it.

Mr. Prem Hari Barma : Therefore, Sir, I am of opinion that this should be omitted

The Honourable Pirzada Abdus Sattar Abdur Rahman : You finish your speech.

Mr. Prem Hari Barma : Beg your pardon ?

The Honourable Pirzada Abdus Sattar Abdur Rahman : Let him finish his speech.

Mr. Prem Hari Barma : Sir, I think that this system of primary election has done positive harm to the Scheduled Castes than benefiting them. So if you want to do any good to the Scheduled Castes, it will be better if we omit this primary election. With these few words, I commend my motion for the acceptance of the House.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : Amendment moved :

"That in part (a) of clause 2 of the Bill, in the proposed paragraph 6, all the words beginning with the words 'In a Province in which' and ending with the words 'any seat in that constituency' be omitted."

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I have already replied to this....

Shri Kamini Kumar Dutta : Sir, I want to say a few words ?

The Honourable Minister moving the Bill, I am quite convinced, has already appreciated the object of the amendment. But the Honourable Minister says that the object of the Bill would be only to make changes so far as the coming elections in Sind are concerned. But, Sir, I can tell him frankly that still I have a little misgiving : whether this will not stand in the way of raising these objections at the time when the problem of election to the East Bengal Assembly also would be considered. I would like to have an assurance.....

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I have already replied. Mr. Dutta should know that any constitutional provision can be amended by the Constituent Assembly at any time. I have made it very clear that the provisions other than this that apply to Sind have been left untouched and they will be amended at the appropriate time. Constituent Assembly can make a law today and change it. There should be no question of moving an amendment which does not relate to Sind and really relates to East Bengal. Those can be moved when the time comes.....

Mr. Prem Hari Barma : I want to know whether this Schedule will again be amended at the time when the question of East Bengal will arise....

The Honourable Pirzada Abdus Sattar Abdur Rahman : All I can say is that it *can* be amended if so desired by the House.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : In view of the statement that has been made, the Honourable Member may like to withdraw the amendment....

(After a pause.)

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : I think the Honourable Member has got the leave of the House to withdraw the amendment.

(After a pause.)

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The amendment with leave of the House stands withdrawn.

The Honourable Dr. Mahmud Husain : Sir, I beg to move :

"That in part (b) of clause 2 of the Bill, in the proposed paragraph 19, for the words 'Anglo-Indian' at all places the words 'Anglo-Pakistani' be substituted."

and also move :

"That in part (b) of clause 2 of the Bill, in the proposed paragraph 19, for the words 'Indian Christian' at both places the words 'Indian Christian' be substituted."

and also move :

"That in part (b) of clause 2 of the Bill, in the proposed paragraph 19, the definition of 'backward areas' and 'backward tribes' be omitted."

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The amendments moved :

"That in

Shri Dharendra Nath Dutta : Sir, what is this : "for the words 'Indian Christian' :... the words 'Indian Christian' be substituted" ?

The Honourable Dr. Mahmud Husain : "Pakistani Christian" !

Shri Dharendra Nath Dutta : You have made a mistake and you have read it wrong.

The Honourable Dr. Mahmud Husain : Thank you.

The Honourable Pirzada Abdus Sattar Abdur Rahman : It was a typing mistake, I think.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : Thank you Mr. Dutta ; this was a slip.

The question is :

"That in part (b) of clause 2 of the Bill, in the proposed paragraph 19, for the words 'Anglo-Indian' at all places the words 'Anglo-Pakistani' be substituted."

The motion was adopted.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That in part (b) of clause 2 of the Bill, in the proposed paragraph 19, for the words 'Indian Christian' at both places the words 'Pakistani Christian' be substituted."

The motion was adopted.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That in part (b) of clause 2 of the Bill, in the proposed paragraph 19, the definition of 'backward areas' and 'backward tribes' be omitted."

The motion was adopted.

Shri Dharendra Nath Dutta : Sir, I do not want to move any amendment in view of the fact that provision made in this Bill will not affect the Eastern Bengal case.

The Honourable Dr. Mahmud Husain : Sir I beg to move :

"That part (c) of clause 2 of the Bill, and the Table of Seats contained in it be omitted, and parts (a) and (b) thereof be re-lettered as parts (b) and (c) thereof, and before part (b) as so re-lettered the following new part (a) be inserted, namely :—

"(a) in the Table of Seats :—

- (i) columns 5, 6 and 8 shall be omitted and the remaining column 7 and columns 9 to 15 shall be re-numbered as columns 5 to 12 accordingly, and all references to those columns in the Table in this Act, shall be construed as references to those columns as so re-numbered ;
- (ii) again the entry in column 1 relating to Sind, the figures 107, 6, 98, and 3 shall be substituted in columns 2, 3, 5 and 12 respectively for the existing figures, and the figures in the other columns against the entry shall be omitted ;
- (iii) the words from 'In the Punjab' to 'Legislative Assembly of the Province' below the Table shall be deleted."

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That part (c) of clause 2 of the Bill, and the Table of Seats contained in it be omitted, and parts (a) and (b) thereof be re-lettered as parts (b) and (c) thereof, and before part (b) as so re-lettered the following new part (a) be inserted, namely :—

"(a) in the Table of Seats :—

- (i) columns 5, 6 and 8 shall be omitted and the remaining column 7 and columns 9 to 15 shall be re-numbered as columns 5 to 12 accordingly, and all references to those columns in the Table in this Act, shall be construed as references to those columns as so re-numbered ;
- (ii) again the entry in column 1 relating to Sind, the figures 107, 6, 98, and 3 shall be substituted in columns 2, 3, 5 and 12 respectively for the existing figures, and the figures in the other columns against the entry shall be omitted ;
- (iii) the words from 'In the Punjab' to 'Legislative Assembly of the Province' below the Table shall be deleted."

The motion was adopted.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

The Honourable Dr. Mahmud Husain : Sir, I beg to move :

"That in part (a) of clause 3 of the Bill, in the proposed paragraphs 5 and 6, for the words 'Indian Christian' at all places and for the words 'Anglo-Indian' the words 'Pakistani Christian' and 'Anglo-Pakistani' respectively shall be substituted."

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That in part (a) of clause 3 of the Bill, in the proposed paragraphs 5 and 6, for the words 'Indian Christian' at all places and for the words 'Anglo-Indian' the words 'Pakistani Christian' and 'Anglo-Pakistani' respectively shall be substituted."

The motion was adopted.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 3, as amended, was added to the Bill.

The Honourable Dr. Mahmud Husain : Sir, I beg to move :

"That after clause 3 of the Bill, the following new clause 4 be added :—

'4. (1) Wherever the word 'Indian Christian' and 'Anglo-Indian' occur in the Act, or any Schedule to the Act and have not been altered by the preceding provisions of this Act the words 'Pakistani Christian' shall be substituted for the former and the words 'Anglo-Pakistani' for the latter, subject to grammatical variations as may be required.

(2) All provisions in the Fifth Schedule to the Act relating to backward areas and backward tribes not omitted by the foregoing provisions of this Act shall be omitted'."

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That after clause 3 of the Bill, the following new clause 4 be added :—

'4. (1) Wherever the word 'Indian Christian' and 'Anglo-Indian' occur in the Act, or any Schedule to the Act and have not been altered by the preceding provisions of this Act the words 'Pakistani Christian' shall be substituted for the former and the words 'Anglo-Pakistani' for the latter, subject to grammatical variations as may be required.

(2) All provisions in the Fifth Schedule to the Act relating to backward areas and backward tribes not omitted by the foregoing provisions of this Act shall be omitted'."

The motion was adopted.

New clause 4 was added to the Bill.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I have got a verbal amendment. Sir, I move :

"That the word 'Second' occurring in clause 1 of the Bill be omitted."

Sir, I want to omit the word 'Second' as this is not the second amendment Bill. It should read :

"This Act may be called the Government of India (Amendment) Act, 1951."

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That the word 'Second' occurring in clause 1 of the Bill be omitted."

The motion was adopted.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Title and the Preamble were added to the Bill.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I beg to move :

"That the Bill, as amended, be passed."

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : The question is :

"That the Bill, as amended, be passed."

The motion was adopted.

THE GOVERNMENT OF INDIA (AMENDMENT) BILL

(*Amendment of Section 299*).

The Honourable Pirzada Abdus Sattar Abdur Rahman (Sind : Muslim) : Sir, I beg to introduce the Bill further to amend the Government of India Act, 1935 (Amendment of Section 299).

(After a pause.)

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, I move :

“That the Bill, further to amend the Government of India Act, 1935, (Amendment of Section 299) be taken into consideration.”

Shri Kamini Kumar Dutta (East Bengal : General) : Sir, I rise on a point of order before the Honourable Minister proceeds with his speech. My point of order is a formal one. I can say at the very outset that my point of order relates to sub-clause (b) of sub-clause (4A) and not to the whole Bill. It runs thus :

“Nothing in sub-section (2) shall be construed to invalidate any law having reference either to the administration or acquisition of any property which is, or is deemed to be, evacuee property under any law for the time being in force.”

My point of order is confined only to this particular portion of sub-clause (b) of sub-clause (4A). I maintain that this provision which is tried to be enacted as a law is vitiated by the principle of repugnancy. It is absolutely repugnant to the fundamental principles which this House has already accepted. It is only on the point of repugnancy that I have raised my point of order. We ought not to enact a law which will be repugnant to the principle already adopted by the House.

As a lawyer I know that the problem of repugnancy may be agitated in a court of law, which may be the Federal Court or the Supreme Court. But I can state here that the repugnancy is so patent that even the President has the competency to find that it is repugnant and it ought not to be placed before the House.

Now, this Bill seeks to amend section 299 of the Government of India Act of 1935. Sub-clause (2) of section 299 runs thus :

“Neither the Federal nor a Provincial Legislature shall have power to make any law authorising the compulsory acquisition for public purposes of any land, or any commercial or industrial undertaking, or any interest in, or in any company owning, any commercial or industrial undertaking, unless the law provides for the payment of compensation for the property acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, it is to be determined.”

So, the underlying and basic principle of this sub-clause (2) is this when there is a compulsory acquisition of property, compensation has to be given.

The Honourable Pirzada Abdus Sattar Abdur Rahman : I thought you were confining yourself to sub-clause (b) of sub-clause (4A) only.

Shri Kamini Kumar Dutta : I am only referring to the evacuee property. This Bill is intended to amend section 299 and I am, first of all, explaining the object of that section in order to explain the repugnancy.

Now, the law has already been enacted as to the administration of the evacuee property, as to what is an evacuee property and as to what is the status of an evacuee. Now, I have myself tried to understand it and to me it seems that the position is very clear. It cannot be said that it is in the interests of the evacuee property that it is vested in the Custodian because it appears that there are some provisions where the Custodian may allow the transfer of the evacuee property. So, it appears that there is no complete extinction of the right of the evacuee in the property which is called the evacuee property. Therefore, this sub-clause aims at this that occasions may arise for the acquisition of an evacuee property also. In that case, if an evacuee property is to be acquired, sub-clause (2) of section 299 would not be

[Shri Kamini Kumar Dutta.]

effective at all. The net result of this would be that an evacuee property can be acquired without paying any compensation because 'nothing in sub-section (2) shall be construed to invalidate any law having reference to the acquisition of evacuee property' and it is only sub-clause (2) of section 299 which lays down that there can be any non-voluntary acquisition.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Sir, my honourable friend has not yet stated how it is a point of order. He is arguing that it will be against the spirit of section 299 ; but I would request him to confine himself to his point of order rather than take advantage of it and make a speech on the merits of the whole thing which he is doing now.

Shri Kamini Kumar Dutta : I think I have said enough to make my point intelligible. I had to do so otherwise no one will be able to follow my point of order. I have said that my contention is that you have already adopted the fundamental principle and it would appear that we are going to enact a law which would be in contravention to the fundamental rights which you have already adopted. In that case this law would be repugnant to the fundamental principle and would be apparently invalid. I will read clause 8 of the Fundamental Rights. It runs thus : "No person shall be deprived of his property except in accordance with law." As this principle has been accepted, I will not go beyond it.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : That principle has been accepted and it will form part of our constitution.

The Honourable Pirzada Abdus Sattar Abdur Rahman : May I make a submission ? From the very start I had been asking under which provision of the Fundamental Rights he thinks that this is *ultra vires*. He has now said that it is under clause 8 of the Fundamental Rights. Now, that clause simply says this :

"No person shall be deprived of his property except in accordance with law,"

So, you can pass any law.

Shri Kamini Kumar Dutta : No, I see we are going to pass a law.

Sir, sub-clause (2) of clause 8 says that—

"(2) No property shall be requisitioned or acquired for public purposes under any law authorising such requisition or acquisition unless the law provides for adequate compensation."

Sir, there is one point, it appears, which is troubling us, that it is not still a component part of the Constitution itself but I say that after the acceptance of the Fundamental Rights by this House, if there is to be any law for the interim period it must conform to the principles already accepted...

The Honourable Pirzada Abdus Sattar Abdur Rahman : That again is not a point of order ; it is a point of propriety. If he says that it is a point of order, he must bring it within the four corners of Fundamental Rights and say that these Fundamental Rights are final Fundamental Rights and that this is in violation of them. The question of propriety cannot be raised because the Constituent Assembly has taken a decision, and the Honourable Member has got to make out the case that Fundamental Rights are final and this is contrary to the Fundamental Rights, and then only can he raise a point of order.

Shri Kamini Kumar Dutta : That is the point which I am now raising. Now, clause 8 (2) of the Fundamental Rights lays down that—

“(2) No property shall be requisitioned or acquired for public purposes under any law authorising such requisition or acquisition unless the law provides for adequate compensation.”

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : This provision will apply under different circumstances after you have framed your Constitution.

Shri Kamini Kumar Dutta : It will of course be for the Chair to rule, but I can say only that after you have accepted the principles, at least during the interim period, you must comply with the principles and my point of order is simply this that by enacting that sub-clause (2) of section 299 would not be applicable in respect of the acquisition of evacuee property you make the payment of compensation nugatory altogether. Evacuee property can be acquired without paying any compensation and it would go, Sir, directly against sub-clause (2) of Fundamental Rights, clause 8. Fundamental Rights, clause 8 is quite definite and emphatic : that no property shall be requisitioned or acquired for public purposes under any law authorising such requisition or acquisition unless the law provides for adequate compensation.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : How do you say that there will be no compensation ? Certain laws operate so far as the evacuee property is concerned. Those laws will not be altered by this.

Shri Kamini Kumar Dutta : No, Sir.

The Honourable Pirzada Abdus Sattar Abdur Rahman : I have understood his point of order. I will give a reply, Sir.

Shri Kamini Kumar Dutta : The thing is, Sir, that this clause (b) says that section 299 should be amended in this form that nothing in sub-section (2) thereof, which requires the payment of compensation, would be applicable to any law regarding the acquisition or administration of the evacuee property. That simply amounts to this that evacuee property can be acquired without violating the provisions of section 299.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : It only says that laws regarding evacuee property will remain unaltered.

Shri Kamini Kumar Dutta : No, Sir. We are now concerned with section 299. We are not concerned with the administration of evacuee property. Clause (2) of section 299, with which only we are concerned, only embodies the principle of making it obligatory and mandatory that compensation must be provided under the law. You cannot enact a law which does not provide for compensation and force a law which wants to enact that so far as clause (2) of section 299 is concerned it would not be applicable in any law regarding the acquisition of evacuee property. In other words an evacuee property can be acquired even without providing for compensation at all. In that case, Sir, my point of order is simply this : that it violates the cardinal principle of clause 8 of the Fundamental Rights.

The Honourable Mr. Nurul Amin (East Bengal : Muslim) : Sir, I would like to speak for five minutes.

Sir, although the Honourable Member has tried to confine his point or order to clause (b) of sub-clause (4A) of clause 2, his objection applies to both the clauses. He has very cleverly omitted any reference to sub-clause (a) because that refers to the abolition of Permanent Settlement in East Bengal. The objection that has been raised by my

[The Hon'ble Mr. Nurul Amin.]

honourable friend applies to both clauses because, Sir, if clause (b) is against the Fundamental Rights, so is clause (a). So it cannot be said that it is only clause (b) against which he has raised this objection but it is also against clause (b). And knowing the strong opposition in passing the law abolishing the Permanent Settlement in East Bengal from a certain quarter and a certain section of the members in that Assembly, I can very well say that his main objection is (Interruptions from Opposition Benches) against the entire amendment of section 299 of the Government of India Act.

Sir, sub-clause (2) of clause 8 of the Fundamental Rights, adopted by this House, refers to adequate compensation. That is a matter which has got to be clarified in this House. The State Acquisition Bill passed by the East Bengal Legislative Assembly will fall within the mischief of this clause as pointed out by honourable friend, Mr. Dutta, because the question of an adequate compensation is there in the Fundamental Rights. The wording is not "compensation"; it is "adequate compensation". So, Sir, this matter may always be agitated (Interruptions) against the compensation that has been allowed by the State Acquisition Bill of East Bengal. So, Sir, I would submit that it is no good saying that the point of order refers only to (b). Let him say frankly and boldly that he opposes any amendment of section 299 of the Government of India Act as there is a section of the people in East Bengal who are bent upon stopping the execution and implementation of the Zamindari Abolition Bill in that Province. That is the main objection. My submission is this that this cannot be a point of order at this stage because the Fundamental Rights—the principles which have been adopted by this House—are not the final word in this matter, because they have neither been incorporated in the Constitution nor has a final decision of this House been given about them. Certain principles have been adopted, Sir, which are in the process of being incorporated into the Constitution or the law. When these are incorporated in the law, Sir, then certainly the Fundamental Rights will have to be looked into but so far as this Bill is concerned, Sir, I do not see that the objection raised by my honourable friend at this stage under the cover of a point of order has any legs to stand on. It is not a point of order which can be raised at this stage and if he has got anything to say with regard to the main provisions of either sub-clause (a) or sub-clause (b) he can say that at the proper time and there may be other speakers also who will express their own opinions and a decision will be taken at that time. Sir, there is no point in this point of order at all.

Shri Kamini Kumar Dutta : On a point of explanation, Sir. I won't repeat anything but only want to reply to what my honourable friend has said. My friend has insinuated that it is my object to put a clog into the operation of the East Bengal Acquisition Bill. I may assure my honourable friend that I do not belong to that class of politicians or agitators at all. I am one of those who did advocate the abolition of zamindari on payment of compensation and I would request my friend to remove all such ideas about me from his mind.

The Honourable Pirzada Abdus Sattar Abdur Rahman : I would not take long. Sir, the Honourable Member I think might have given the explanation at the time of the consideration of the Bill if it was accepted but I will now reply to his point of order. I support the contention of Mr. Nurul Amin that this point of order is really a point of order

against both the provisions and not against one because whether the compensation is adequate or not can be agitated in the case of other provisions also. Therefore Mr. Nurul Amin is right to say that the Honourable Member should have, in all fairness, included both the sections and raised his objection. Mr. Kamini Kumar Dutta knows very well that under section 299 he can raise objection both ways. First of all no compensation is provided; secondly compensation is inadequate. Therefore his contention about fundamental rights, compensation being adequate or not arises in case of both provisions. Therefore, Mr. Nurul Amin is right that this point of order really arises in case of both. Therefore I will dispose it of in the light of the observations made by Mr. Nurul Amin. Sir, the Honourable Member has referred to Fundamental Rights and he has made a reference to clause 8 (2) of the Fundamental Rights Report and he says that in view of that this Bill cannot come before the House. Now my friend forgets that the Fundamental Rights Report is a report of the committee of this Assembly appointed to go into the question of fundamental rights and make a report to the Constituent Assembly. The Fundamental Rights Committee has made a report and that report has been adopted by the House. Similarly several other committees have been appointed, *e.g.*, Basic Principles Committee, Minorities Committee and a number of others. They will make their reports to the Constituent Assembly which will be considered and adopted. Then the question of framing the constitution will come, which may perhaps be accepted by the House as enunciated by the various reports of the committee. That constitution when drafted will come before the House and the procedure for that is laid down in the rules of the Constituent Assembly. Let me refer my friend to the rules of the Constituent Assembly. If he had taken the trouble to read the rules properly, I think he would not have raised the point of order at all. Rule 42 says, Constituent Assembly Chapter VII—Legislative Business, Legislation. The procedure for making provision as to the constitution of the Dominion or for amending the Indian Independence Act and the Government of India Act, 1935, shall be the same as that of a Bill. Now that provision is very clear and my friend knows it very well what the procedure for a Bill is. Procedure for a Bill is that you publish it in advance, you introduce it in the House; you move it for consideration and consider it clause by clause and then ultimately you make motion for its being passed.

Shri Dharendra Nath Dutta (East Bengal : General) : We are now considering repugnancy.

The Honourable Pirzada Abdus Sattar Abdur Rahman : Have patience Mr. Dutta. Please listen to me and make no interruption and then make your observations afterwards. Now when the constitution is adopted, based on the reports of the committees of the Constituent Assembly it will go through all these procedures. It will be published, it will be introduced, it will be considered clause by clause and ultimately passed by the House. Does my honourable friend remember whether this procedure was followed in the case of the Fundamental Rights Committee's report. It was not gazetted; it has not followed the procedure laid down for adoption of a Bill. How is it that that enactment is binding here? It is not constitution or part of the constitution. It is a report and some principles have been accepted by the House which will be incorporated in the form of a Bill when the Constitutional Act comes later on. Then it will come into force; there is no constitutional point about it. The present motion is in order and the Assembly can take any decision that they like.

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : I do not think that it is a point of order. At best it is a point of propriety whether the House after accepting certain principles can go behind those principles. As has been already pointed out these fundamental rights have been accepted not for present operation but for incorporation into the constitution. When the constitution will be accepted and these fundamental rights are incorporated in it then alone these fundamental rights will become operative ; at the moment they are not operative. The evacuee property law as it stands will not be altered and under the present law whatever compensation they are entitled to they will certainly get and the Bill does not propose to alter that. Under the circumstances I do not think Fundamental Rights can in any way stand in the way of this Constituent Assembly taking independent decision in this matter.

The Honourable Pirzada Abdus Sattar Abdur Rahman : May I move for consideration, but it is already time for the House to rise ?

Mr. Chairman (*The Honourable Mr. Abdul Hamid*) : I think the House desires that we should adjourn.

The House stands adjourned till 5.30 P.M. on Friday next.

The Assembly then adjourned till Half Past Five of the Clock on Friday, the 13th April, 1951.